

## **REMARKS**

### **Status of the Claims**

Upon entry of the amendment above, claims 8-15 will be pending, claims 8 and 15 being independent. Claims 1-7 have been canceled.

### **Summary of the Office Action**

The drawings are objected to under 37 CFR §1.83(a) for not showing “the subsequent and preceding stations.”

A requirement is also made “to provide a complete showing of all drawing, labeled in English (see fig. 4), in relation to the invention including the drawings incorporated by reference.”

Corrected drawing sheets in compliance with 37 CFR §1.121(d) are required.

Correction of the abstract of the disclosure is required in view of so-called “legal phraseology.”

Appropriate correction of the identity of the co-pending U.S. application mentioned on the first page of the specification is required.

“A substitute specification including the claims in idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required.”

Claims 1-7 are rejected under 35 USC §101 for double patenting for claiming the same invention as that of claims 1-8 of U.S. Patent No. 7,165,926 B2.

Claims 1, 2, and 5 are rejected under 35 USC §102(b) as being anticipated by STARGELL (U.S. Patent No. 3,871,314).

Claim 3 is rejected under 35 USC §103(a) as being unpatentable over STARGELL.

Claim 4 is rejected under 35 USC §103(a) as being unpatentable over STARGELL.

Claims 6 and 7 are rejected under 35 USC §103(a) as being unpatentable over STARGELL in view of BROWN (U.S. Patent No. 3,812,803).

### **Response to Office Action**

#### **A. Summary of the Amendment**

Claims 1-7 are canceled in favor of new claims.

Replacement Sheets 1/3, 2/3, and 3/3 of drawing are presented for the purpose of overcoming the objections to the drawings.

A substitute specification, including both clean and marked-up versions, is attached which is believed to improve the form of the specification. Among other things, the substitute specification corrects the identity of the aforementioned related application in the first paragraph, and the abstract of the disclosure is corrected.

For the purpose of advancing the prosecution of the instant application, a terminal disclaimer is attached.

In addition, for the purpose of formally identifying the aforementioned related application, Applicants have cited its published form in an information disclosure statement that is being filed concurrently herewith.

**B. Withdrawal of Objection to the Drawings**

Reconsideration and withdrawal of the objection to the drawings is kindly requested in view of the attached Replacement Sheets of drawing and in view of the following comments.

The submission of Replacement Sheets herewith is believed to be consistent with the requirement made in the Office action and, therefore, Applicants submit that the requirement for new drawings has been fully met.

The figure numbering in the Replacement Sheets varies from that of the original drawings. Specifically, original figures 1a, 2a, and 3a have been replaced with figures 1, 2, and 3, respectively. Original figure 3 has been replaced with new figure 4. Original figures 4 and 4a have been replaced with new figures 5 and 6, respectively.

Withdrawal of the objection under 37 CFR §1.83(a) is requested regardless of the submission of replacement sheets of drawing. This objection is premised upon there being no showing of “subsequent and preceding stations,” presumably as were specified in former claim 7, which had specified that “said subsequent station and preceding station are identical.”

The subject matter of former claim 7 now appears in new claim 14, which calls for “said re-forming and said shaping are done at one forming station.” With former claim 7, Applicants did not intend to describe particular details of forming stations, i.e., with the description that subsequent and preceding stations (for the re-forming and shaping) are identical. Instead, it was Applicants’ intention that the re-forming and shaping are performed at the same station.

Therefore, the expressions “preceding station” and “subsequent station” have been deleted in new claim 14, with claim 14 now reading simply that “re-forming and shaping are done in one

forming station.”

In view of the amendment, reconsideration and withdrawal of the objection to the drawing under 37 CFR §1.83(a) are kindly requested.

In addition, withdrawal of the objection under 37 CFR §1.84(p)(5) is requested. The objection is premised upon there being numeral 18a in Fig. 2a and no numeral 21a in Fig. 4.

In paragraph 0018 of the attached substitute specification, reference to numeral 18a in Fig. 2a has been replaced with reference to numeral 18a in Fig. 3. In the Replacement Sheets, reference numeral 18a is in fact shown in Fig. 3.

In the Replacement Sheets, original Fig. 4 has been changed to Fig. 5. In Fig. 5 of the Replacement Sheets, numeral 21 has been replaced with 21a.

In view of the amendment, reconsideration and withdrawal of the objection to the drawing under 37 CFR §1.83(p)(5) are kindly requested.

**C. Withdrawal of Objection to Abstract; Identity of Co-Pending Application; and Requirement for Substitute Specification**

In view of the submission of a substitute specification herewith, which includes: (1) a corrected abstract which omits so-called “legal phraseology”; and (2) a correction of the identity of Applicants’ co-pending application in paragraph 0001, reconsideration and withdrawal of the objection to the abstract, the requirement for correction of the identity of the co-pending application, and requirement for a substitute specification are requested.

No prohibited new matter is contained in the substitute specification.

**D. Rejection Based Upon Double-Patenting and Submission of Terminal Disclaimer**

Withdrawal of the double-patenting rejection, based upon the claims of U.S. Patent No. 7,165,926, is requested in view of the cancellation of claims 1-7. The new claims are not believed to be directed to the same invention and, therefore, rejection for double-patenting under 35 USC §101 is not appropriate.

For example, new claim 8 includes the limitation of a certain time instant in which no shaping and no re-shaping is allowed to take place. Limitation (b) in claim 1 of US ‘926 is directed to different subject matter.

For the purpose of advancing prosecution of the instant application and, more specifically, for avoiding any issue relating to obviousness-type double patenting, Applicants are submitting herewith a terminal disclaimer.

**E. Rejections Based Upon STARGELL, Alone or in Combination with Other Art**

Reconsideration and withdrawal of the four grounds of rejection, each of which is based primarily or solely upon STARGELL are kindly requested at least for the following reasons.

First, claims 1-7 have been canceled in the amendment above. The newly presented claims are believed to patentably distinguish the invention over the disclosure of STARGELL, as well as STARGELL combined with BROWN, for example.

In STARGELL, attention can be directed to Figs. 12, 15, 20, 25, and 27. Applicants are claiming a method. Their method is patentably distinct from the prior art. There are two features in particular to which Applicants direct the Examiner's attention. The method of independent claims 1 and 15 include shaping and re-shaping (re-forming), which are recited in subparagraphs (a) and (b) of each of the claims. The re-shaping has the effect of providing an asymmetrical cross section of the at least one projection that is used for blocking rotations of the rivet island of a tab (which is referred to as the attaching portion), suitably placed to hold the tab in place, and associated with its rear free end with the at least one projection.

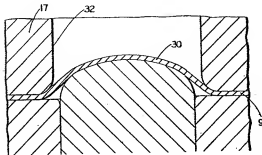
To provide a proper stop and to provide a secure abutment of the rivet island (i.e., "attaching portion" in the claims) against all rotations of the tab and also allow some flexibility in changing the horizontal plane of the attaching portion, the stop has at least one projection steep enough in the front, which is a need addressed by the invention. This steepness in the front makes it asymmetrical, since the other end is not as steep and not as increased in angle during the re-forming, as the front portion of this pre-form.

The pre-form is more suitable after re-shaping, more secure, and still allows a very thin gauge of the lid panel which is very critical with respect to breaking when two large shaping operations are performed.

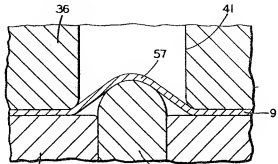
Independent claim 1 additional specifies that no score line is created during the shaping, and, also, not during the re-forming, to make the lid safe in production and to allow all force concentration and all strain concentration to be placed onto the shaping of the pre-form, and, subsequently, placed onto the re-shaping.

As STARGELL does not show when the score line is introduced (see column 10, line 10 ff.) he has the separately described rivet redrawing operation (column 8, lines 40-45), which provides from the pre-shaped dimples 30 in Fig. 9 the final shape 57 in Fig. 11. The dimples are called "final forms," without mentioning reference numeral 57 in the description in column 12, lines 30-37 addressing the dimples 57 that were "shaped finally" earlier and have a shape in cross section that is symmetrical to block rotations. Reference 57 is alluded to in the Office action on page 5, five lines from the bottom, where reference is made to column 9, lines 40-45 of STARGELL. The symmetrical shape in cross section is a dimple which has a cone shape, which has left, front, back and right sides slightly sloped and not differently shaped. Evidently, a shape like that shown in Fig. 11 would not be in a position to stop a rotating tab reliably from further rotation, as the edges are not steep enough. The method to form them is shown in two steps below:

Pre-form 30:

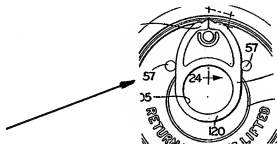


Final form 57:



The re-shaping mentioned by STARGELL, therefore, is not the re-shaping Applicants are claiming, inasmuch as Applicants have a re-shaping that provides an asymmetrical shape, that increases the angle of inclination of the front edge which is associated to a later-attached tab with its attaching portion and its back end.

Additionally, Applicants are placing this re-shaped projection opposite to the rivet, which is referred to as a "mounting place" in Applicants' claims. The opposite position is the one that is left blank by STARGETLL (see Figs. 12 and 25). Fig. 25 of STARGELL is shown below:

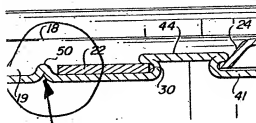


The lid has nothing shown near the central plane 24. Evidently, placing a dimple 37 there – although there would be no reason to place a dimple there – would not result in a blocking of rotation, as the side edges of the tab 120 that are parallel to the vertical plane 24 are suited better for stopping rotation in an embodiments of prior art. As this prior art embodiment also does not address the limiting of rotations *with respect to an attaching portion*, one skilled in the art would have had no reason to consider other places for dimples 57 in the STARGELL embodiment, Fig. 25.

Applicants' projection has different shape. The position of Applicants' projection is different, and Applicants' working process is superior with respect to the prior art. As a result, the projection is better suited for rotational blocking near a rivet island (i.e., attaching portion) of a tab, and all of these features are deemed critical to the success of Applicants' invention. It is not a mere shifting of projections from one place to another, or a shaping of projections in a suitable way. The thin gauge of the lid panel is a critical matter, and shaping, or twice-shaping, needs to be perfectly addressed and suitably placed, to give a result that is superior over the shape of Fig. 11 of STARGELL with the symmetrical dot formation of the reformed dimple 57 (column 12, line 33).

In addition to Applicants' invention patentably differing from STARGELL, at least for reasons given above, Applicants next provides comments relating to ZYSSET (U.S. Patent No. 4,535,909), which patent was cited in their information disclosure statement filed on August 6, 2007.

A portion of Fig. 4 of ZYSSET is shown below:



The crimped ridge 50, as in the embodiments of STARGELL, mentioned above, has a symmetrical shape. Its height is exaggerated in the drawing, and the description merely includes the mention, in column 2, lines 10-17, that "there is a crimped ridge," which abuts to the back end 22 of the attaching portion of the ZYSSET tab in Figs. 1 and 2. Evidently, the back end of the back edge of the plate 22 is just suitable to stop the tab from rotation if there is an additional matter included, the hexagonal shape 30, to also block rotation with respect to the rivet 44. Both together might be helpful, but a single one 50 without the hexagonal shape would not function reliably.

A key to superior anti-rotation beads, which are the at least one projection in new independent claims 8 and 15 is the asymmetrical shape and the specific adjustment of a front steep edge opposite the mounting place, to have a maximum lever arm with respect to forces provided by abutting the attaching portion with regard to the blocking front portion of the re-formed pre-shape in Applicants claim 8. Considering the foregoing, Applicants respectfully submit that the various observations regarding STARGELL under Section 1 on page 5 of the Office action are rendered moot.

### **SUMMARY AND CONCLUSION**

The grounds of objection and rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

Payment is being made herewith for a fee for an extension of time for two months and a fee for a terminal disclaimer. No additional fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this reply as timely and/or complete to Deposit Account No. 19-0089.

Further, although an extension of time for two months is believed to be necessary at this time, if it were to be found that an additional extension of time were necessary to render this reply timely and/or complete, Applicants request an extension of time under 37 CFR §1.136(a) in the necessary increment(s) of month(s) necessary and, for that reason, the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,  
Hajo RIECK et al.



James L. Rowland  
Reg. No. 32,674

September 11, 2007  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
703-716-1191 (telephone)  
703-716-1180 (fax)  
jrowland@gbpatent.com